

UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES

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Patent Interference 105,592 McK  
Technology Center 1600

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CENTOCOR, INC.  
(Inventors: Jill Giles-Komar *et al.*)

Application 10/912,994,  
Junior Party,

v.

ABBOTT GmbH & CO., KG,  
(Inventors: Jochen Salfeld *et al.*)

Patent 6,914,128,  
Senior Party,

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*Before: FRED E. McKELVEY, Senior Administrative Patent Judge,  
and RICHARD E. SCHAFER and SALLY GARDNER LANE,  
Administrative Patent Judges.*

*McKELVEY, Senior Administrative Patent Judge.*

JUDGMENT

Upon consideration of the record, and for the reasons given in  
MEMORANDUM OPINION (Final Decision—Decision on Abbott  
Motion 7) (Paper 417), it is

1 ORDERED that judgment on priority as to Count 1 (the sole  
2 count in the interference; Paper 1, page 5) is awarded against Junior Party  
3 Jill Giles-Komar, David M. Knight, David Peritt, Bernard Scallon,  
4 David Shealy and Centocor, Inc.

5 FURTHER ORDERED that Junior Party Jill Giles-Komar,  
6 David M. Knight, David Peritt, Bernard Scallon, David Shealy and  
7 Centocor, Inc. is not entitled to a patent containing claims 1, 102 and 103  
8 (corresponding to Count 1) of:

9 application 10/912,994  
10 filed 6 August 2004

11 FURTHER ORDERED that claims 1, 102 and 103 of  
12 application 10/912,994 are finally refused. 35 U.S.C. § 135(a).

13 FURTHER ORDERED that if there is a settlement agreement,  
14 attention is directed to 35 U.S.C. § 135(c).

15 FURTHER ORDERED that a copy of (1) Paper 417,  
16 (2) Paper 418, and (3) this JUDGMENT and shall be placed in the files  
17 of (a) application 10/912,994 and (b) U.S. Patent 6,914,128.

18 Summary of decisions on motions

19 Centocor Motion 1 seeking judgment based on unpatentability over  
20 the prior art—denied for the reasons given in Paper 418.

21 Centocor Motion 2 seeking to exclude evidence—dismissed as being  
22 unnecessary to decide.

23 Centocor Motion 3 seeking judgment based on priority—dismissed as  
24 moot in view of the granting of Abbott Motion 7.

25 Centocor Motion 4 seeking to strike part of Abbott Opposition 3—  
26 dismissed as moot in view of the dismissal of Centocor Motion 3.

1           Centocor Motion 5 seeking to exclude evidence—granted in part and  
2   denied in part for the reasons given in Paper 416.

3           Abbott Motion 1 for judgment based on unpatentability over the prior  
4   art—denied for the reasons given in Paper 418.

5           Abbott Motion 2 for judgment based on lack of written description—  
6   dismissed as moot.

7           Abbott Motion 3 for judgment based on inequitable conduct—denied  
8   for the reasons given in Paper 127, Paper 184 and Paper 191.

9           Abbott Motion 4 to strike Centocor Reply 1—discussed as moot since  
10   Abbott has prevailed on Centocor Motion 1.

11          Abbott Motion 5 to exclude evidence—dismissed as moot.

12          Abbott Motion 6 for an extension of time—denied for the reasons  
13   given in Paper 185.

14          Abbott Motion 7 for judgment based on priority—granted for the  
15   reasons given in Paper 417.

16          Abbott Motion 8 to exclude evidence—dismissed as moot.

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2 (cc via electronic mail)

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